revealed by the *Washington Post* article, there is no basis to conclude that AOL's stock price was materially impacted by the revelation of the allegedly omitted information about accounting irregularities at AOL on July 18 and 19, 2002.

B. *AOL's Stock Price Did Not React To The Layoff Announcements In August 2001.*

47. The Complaint asserts that an employee of CSFB was made aware on July 10, 2001 that AOL had some layoffs on that day and that CSFB did not reveal that information in its subsequent reports. No specifics are provided regarding this allegation.

48. It is important to note that, after the merger, there had been many layoffs at AOL. For instance, on January 25, 2001, AOL announced that it would lay off 2,400 workers across all its divisions.[55] On May 20, 2001, Warner Music announced it had recently cut 600 jobs,[56] and on July 9, 2001, the day before the alleged conversation of the CSFB employee, AOL announced that it would close retail stores and that, as a result, would lay off 3,800 employees.[57] AOL's stock price did not react significantly on the days these announcements were made, which raises the question of why an announcement of the layoffs CSFB is alleged to have known about would have had an impact on the stock price. None of these three days on which AOL announced layoffs was associated with significant abnormal returns in Dr. Hakala's purported event study.

49. On July 19, 2001, nine days after CSFB allegedly learned about the layoffs, *The Wall Street Journal* reported that:

> "It is increasingly clear that the company will rely heavily on cost cutting, rather than revenue growth alone, to meet its current targets. AOL Chief Executive Gerald Levin

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[55] "Layoffs Boost AOL Stock," *Knight Ridder Tribune Business News*, January 25, 2001.
[56] "For Warner Music, Online Opportunities," *The New York Times*, May 20, 2001.
[57] "Warner Bros. Plans to Shut Down All of Its Retail Stores by October," *The Wall Street Journal*, July 9, 2001.

> made that clear, saying he is ‘making cost management a permanent way of life’ at AOL and his plan for the next six months is to ‘drive margin expansion.’ In an interview, Mr. Levin didn’t exclude the possibility of future layoffs, as part of the company’s continued cost management.”
>
> “AOL’s Revenue Trails Estimates as Loss Narrows,” *The Wall Street Journal*, July 19, 2001

My event study does not find a significant abnormal return on this day.

50. The press reported layoff announcements at AOL on August 13, 2001. The Plaintiff appears to believe that these announcements are curative disclosures of the information CSFB is alleged to have had in its possession on July 10, 2001. I could find no allegation in the Complaint justifying the presumption that the layoffs announced on August 13 are the same ones of which CSFB was alleged to be aware in July. In fact, the information published on August 13, 2001 is about future layoffs, not the past layoffs of which CSFB was allegedly aware.

51. On August 13, 2001, *The Wall Street Journal* published an article titled “AOL Time Warner to Cut Work Force and Online Unit” which stated that AOL was expected to announce substantial layoffs soon. My event study finds that AOL’s stock-price movement on this day, the first time that the market received this information, was not significant.

52. For the reasons enumerated above, there is no basis to conclude that CSFB concealed news about layoffs at AOL as alleged in the Complaint or that AOL’s stock price reacted significantly to the revelation of the allegedly omitted news about layoffs at AOL.

C. AOL’s Stock Price Did Not React To Allegations In October 2002 About An Alleged AOL-Specific Conflict In CSFB’s Analyst Coverage.

53. On October 21, 2002, allegations of an AOL-specific analyst conflict relating to CSFB were first published in an Associated Press article – in other words, the allegations of dishonesty of CSFB’s analysts became known to the

market.[58] AOL's stock price closed at $13.05 on this day, having closed at $12.57 on the previous trading day of October 18, 2002. My event study shows that the abnormal movement in AOL's stock price on October 21, 2002 was 0.47%. This positive insignificant stock-price movement is inconsistent with the Plaintiff's arguments that CSFB's alleged misconduct had an inflationary impact on the stock price. The fact that AOL's stock price did not decline when the market first learned of allegations that CSFB's analyst reports on AOL were tainted is another indicator that the market did not regard CSFB's reports as material.

VII. The Purportedly Omitted Information About The Advertising Market Downturn In Year 2001 Was Widely Discussed In The Public Press And Analyst Reports Before And During The Class Period.

A. Advertising And AOL.

54. When the America Online – Time Warner merger was finalized, AOL had in place a highly publicized target for 2001 EBITDA of $11 billion. According to their reports, some analysts considered this target to be extremely ambitious at a time when economic activity was weakening and the U.S. was effectively entering a period of recession.[59]

55. Advertising revenue was an important source of revenue for AOL, though less than one quarter of its total revenue. Consequently, for AOL to achieve its revenue and EBITDA targets, it was necessary for advertising to hold up and grow as the economy weakened. AOL's advertising revenue had two components. One component was traditional media advertising including print and networks, and the other component was online advertising. AOL's 2001 revenues from advertising online, networks, and publishing were each

[58] "Filing expected by Mass. regulators against CSFB," *The Associated Press State & Local Wire*, October 21, 2002.
[59] For example, see analyst reports by Deutsche Bank and UBS Warburg published on February 1, 2001.

under 9% of total revenue, and total advertising revenue was under 25% of total revenue.[60]

56. During the class period, AOL, through its internet provider and portal America Online, had a dominant share of online advertising.[61] However, because of the collapse of the dot-com boom, the advertising market was in flux and hard to forecast.[62]

57. As I will show in the following sub-sections, there was much discussion in the press, by companies, and by analysts, of the advertising recession in traditional media during the class period. There was also much discussion of how some online providers were adversely affected by the collapse of the dot-com boom. AOL management made clear statements that the recession in traditional media advertising affected the company's revenues adversely and offered reasons why online advertising at its America Online division was going to keep growing at a fast pace. Many analysts reiterated these views of AOL's management.[63] However, throughout the purported class period, some very prestigious analysts also expressed caution to the market about the potential impact on AOL of the advertising slump, so that the market was well aware of the existence of concerns about how AOL's business would be affected by the weak online advertising market.

58. In the next sub-section, I also show that CSFB did, in fact, make statements about the advertising downturn and its impact on AOL's business that are ignored by the Complaint.

B. CSFB Made Statements In Its Reports On AOL About The Advertising Downturn.

59. CSFB's report on AOL published on February 1, 2001 was clear that there was substantial uncertainty concerning the key drivers of the firm's growth.

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[60] AOL's 10-K filed on March 28, 2003.
[61] Based on data provided in AOL's 2001 10-K filing, and Universal McCann's U.S. advertising reports, America Online's advertising revenue was almost 40% of total U.S. internet revenue in year 2001.
[62] See, for example, "Top forecaster sees lower ad growth," *Advertising Age*, June 11, 2001.
[63] Refer to the following Section D.

Given the recognized importance of advertising for AOL, it should have been clear to all readers that this uncertainty extended to advertising growth. Specifically, CSFB stated:

> "The company begins 2001with real momentum on a number of important metrics, though visibility on key growth drivers in 2H is not as high as we'd like, given the projected growth ramp as year unfolds."
>
> "AOL Time Warner Analyst Day, and Q4 Results," CSFB, February 1, 2001

60. The same report discussed various risks and stated that:

> "We are monitoring several risks/issues going forward: revenue and earnings visibility, earnings quality, free cash flow generation, structure of a potential cable deal, and a variety of integration challenges."
>
> "AOL Time Warner Analyst Day, and Q4 Results," CSFB, February 1, 2001

Though this statement does not mention advertising specifically, it states that "revenue visibility" is a risk. This is a term of art for analysts indicating the presence of uncertainty about how a financial variable will evolve. In this case, I believe the market would have interpreted this report to mean that there is uncertainty or difficulty in forecasting AOL's aggregate revenue, of which advertising is an important component.

61. The Complaint ignores the fact that CSFB's reports on AOL during the class period also contained statements about the slowdown in the advertising market. For example, in its February 13, 2001 report on Internet (not cited in the Complaint), CSFB states "Hampered by a difficult economic backdrop, tangibly manifested in slowed retail sales and slowed demand for online advertising, even the strongest names in our universe faced challenges in monetizing traffic during Q4'00. Looking forward, this environment appears likely to continue through at least the first half of 2001…."

62. In its April 3, 2001 report, CSFB stated "[O]ur estimate of $10.9B does not factor in a price increase, but it does assume some stabilization in the decline in advertiser and consumer spending in H2 01," which opinion it reiterated in its April 16, 2001 report.

63. The Complaint incorrectly attributes to CSFB several comments that AOL made about "a firming ad market" as a key driver of growth in the second half of 2001. Not only did CSFB state in its April 16, 2001 report that it was citing AOL, it also raised concerns about the uncertainty of the factors highlighted by the company. In its April 18, 2001 report (cited in paragraph 42 of the Complaint), CSFB states "Although a firming ad market, seasonality, revenue synergies, new services and a strong content pipeline were all offered [by AOL] as key growth drivers in the second half, the uncertain economic environment and the unpredictability of some of these variables keep visibility low."

64. Again, in its July 19, 2001 report (cited in paragraph 74 of the Complaint), CSFB cited the company's reference to a "firming ad market" but reiterated its prior concern: "…uncertain economic environment and the unpredictability of some of these variables keep visibility low." Commenting on the ad market specifically, CSFB reported that the "advertising revenue results reflected the overall weak ad market." CSFB also noted that cost cutting efforts by the company were allowing for EBITDA to meet estimates, not revenue.[64]

C. The Public Press And Analysts Extensively Discussed The Reduction In Advertising Growth And, Eventually, The Advertising Recession.

65. At least as early as October 2000, prior to the beginning of the class period, analysts following the advertising industry began to discuss the potential slowing growth in advertising expenditures in 2001. Many revised their advertising expenditure growth forecasts downward. For example, in its Media industry report published on October 17, 2000, Bernstein Research stated:

> "Undercurrent of cracks in ad market were quietly acknowledged by broadcast, cable network, syndicators, and industry trade brass attending annual ANA

[64] Apart from CSFB's comments on the advertising downturn made in its six AOL reports that I discuss in this section, CSFB also commented on the declining advertising market in its reports on AOL issued on June 25, 2001, October 18, 2001, January 8, 2002, and January 30, 2002.

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> meeting in California yesterday, but not to extent that would cause us to revise our estimates, which already include a downturn, farther downward at this time.
>
> …
>
> Viacom, Disney and AOL/Time Warner have taken hits recently due to advertising uncertainty, which appears to be manifesting itself in slower *growth* rather than declines. Short of a recessionary slowdown (and there is no indication of that level of problem) that would result in actual ad declines, the market appears to have more than taken the potential of slower ad growth into account…. AOL/Time Warner has only 10% exposure of revenues to advertising….
>
> …Next year our overall ad estimate grows at about a half point ahead of nominal GDP, or at about 6.4%, well I [*sic*] below this year's estimated 9% ad growth…."
>
> "Advertising Uncertainty Begins to Suggest Declines In Line With Our Current Estimates," Bernstein Research, October 17, 2000

66. The *National Post* reported on December 26, 2000 that, in a pair of conferences held in New York to discuss the next 12 months in media:

> "Virtually every expert predicted that ad spending would slide in 2001, following a record year in which media companies feasted on the largesse of Internet startups, a federal election, the Olympics and the residual effects of millennial madness."
>
> "Requiem for the halcyon ad days: Next 12 months in media expected to be subdued," *National Post*, December 26, 2000

67. In July 2001, *Business Week* wrote that "Advertising isn't just down. It's out. (…) Among the hardest hit sectors, of course, is internet advertising." The article went on to discuss the fact that AOL Time Warner was "rising above the wreckage" and to describe why AOL was more successful than its peers in obtaining advertising business.[65]

68. By mid-2001, most forecasters had reduced their 2001 advertising expenditure growth estimates further downward.

69. For example, in December 2000, Myers Reports Inc., Salomon Smith Barney, Universal McCann, and Zenith Media, projected year 2001 U.S. advertising expenditure growth of 4.9%, 6.0%, 5.8%, and 4.6%, respectively, versus

[65] Jane Black, "AOL Asks: What Ad Bust?" *Business Week Online*, July 12, 2001.

growth in year 2000 of 9.8%.[66] Between January 2001 and June 2001, all four reduced their 2001 growth estimate to 2.5% or lower. An article published on March 19, 2001 in *TheWall Street Journal* quoting Merrill Lynch's analyst Lauren Rich Fine indicated that advertising expenditures were expected to grow at 2.5% in 2001, about a quarter of the ad spending growth rate in 2000. Through the year, forecasters continued to decrease expectations for advertising expenditure in 2001 as the downturn became evident. In September 2001, ABN Amro, Lehman Brothers, Myers Reports, UBS Warburg, and Zenith Media all forecasted declines in advertising expenditures in 2001 compared to 2000.

70. I also reviewed the publicly available information on year 2001 advertising growth estimates for the online, television (of which networks was a part), and publishing advertising mediums. Similar to total advertising growth, analysts and public press forecasted lower or negative growth rates in these three mediums as well. I provide several examples below:

- The November 7, 2000 Bernstein report referenced above projected 5% growth in television, 0% in magazines, and 34% in online advertising. Bernstein subsequently decreased all of these projections to 0.4%, -2.2%, and -4.4% in its April 6, 2001 report.

- On March 7, 2001, Yahoo! announced that it was "committed" to achieving break-even results for full-year 2001, far short of the previous forecast of earnings between 33 and 43 cents per share. The company cited the slowing U.S. economy and a weak online advertising market. A few days later, the *Financial Times* summarized bluntly the problem posed by the slow-down in advertising expenditures for AOL:

> "The most ambitious merger attempted in the media and entertainment business has collided with the harshest US advertising market in a decade." (emphasis added)

[66] Myers Reports, Inc., Universal McCann, and Zenith Media are prominent forecasters for advertising market revenues.

"Pittman's progress," *Financial Times*, March 19, 2001

- On August 27, 2001, *NewsInc* published an article that stated "…Coen said in his report in June that spending by Internet-based firms on TV and in magazines went down 40 percent in the first quarter of the year. 'There is little doubt the boom and bust in dot-com spending is the main source of disruption in U.S. advertising trends,' Coen said in the report."[67]

71. The public press and analyst reports excerpted above are only a few of the large number of articles and reports that discuss the slowing growth and subsequent downturn in the national advertising market and specifically the online advertising market in year 2001. Potential investors in AOL therefore had access to multiple sources of information regarding this widely discussed fact of a downturn in the advertising market. There is no basis to conclude that the market was not fully aware of the slowdown and eventual decline in 2001 of the markets for media and online advertising.

D. There Was A Range Of Opinions In The Market Regarding The Effect That The Advertising Decline Would Have On AOL's Business.

i. AOL Represented To The Market That It Could Achieve Its Financial Objectives Despite The Slow-Down In Advertising And Many Analysts Reiterated This Observation.

72. The pre-merger Time Warner entity made clear in late 2000, after the merger was approved by the FTC, that its earnings for the last quarter of 2000 would be lower than expected because of softness in the advertising market. An article in the *Financial Times* on December 18, 2000 reported:

> "…Time Warner also said advertising on its cable television stations has been 'soft' recently.

[67] "Death of industry standard highlights pain of ad sales dip: Trade magazines suffer declines far worse than do newspapers," *NewsInc*, August 27, 2001.

Time Warner's statement was its first acknowledgment that there could be a slowdown in the advertising market…."

"Time Warner warns on earnings ahead of merger," *Financial Times*, December 18, 2000

73. AOL represented to investors that its revenue was less sensitive to advertising than the revenue of its competitors.[68] Reports by analysts at Bernstein Research, a firm without investment banking ties, suggest that the firm's analysts viewed these representations as credible as they wrote in January 2001 that:

"…With about 20% of revenues from advertising, 43% from subscriptions and the rest from content like music, movies, [*sic*] and books, this company [AOL] is not as exposed to advertising as a Viacom (40%) or a Disney (30%). At AOL Time Warner, dual – or more – revenue streams abound in online, cable systems, cable networks, and publishing, providing some protection in the current economic slowdown. Money flowing to online advertising at AOL appears to come, primarily, from marketing budgets, which, unlike traditional advertising monies, fare well in a correction."

"AOL Time Warner: Opportunity Everywhere," Bernstein Research, January 26, 2001

74. AOL management reiterated these representations strongly in the wake of Yahoo's announcement of sharply lower earnings leading to a drop in the stock price of 15.52%. An article in *The New York Times* dated March 9, 2001, stated that:

"AOL Time Warner's co-chief operating officer, Robert W. Pittman, said yesterday that the company stood by its 2001 financial goals. 'Nothing's changed, and we're excited about our business,' Mr. Pittman said. 'The company is in good position no matter what happens in the business cycle.' AOL has been under scrutiny since Wednesday when Yahoo, a competitor and Internet bellwether, said it would fall short of revenue expectations. Noting that there are 28 million AOL members worldwide, Mr. Pittman said the company was better insulated from a slowdown in advertising than other companies."

"AOL Stands by Forecasts," *The New York Times*, March 9, 2001

[68] "AOL Time Warner Sticks to Its Aggressive Goals," *The New York Times*, January 13, 2001.

ii. Many Analysts Expressed Caution To The Market About The Effect Of The Advertising Slump On AOL, But Many Analysts Also Believed AOL's Assessment That It Was Better Positioned Than Other Companies.

75. The content of analysts' reports suggests that analysts were concerned about the effect of the advertising market downturn on AOL but also viewed this assessment of AOL management as credible. For instance, in April 2001, Morgan Stanley, whose AOL analysts Meeker and Bilotti ranked ahead of the CSFB analysts in the Institutional Investor magazine rankings, wrote:

> "The company cannot get around advertising exposure – Across all media, advertising revenue growth rates have been increasingly weak as C2001 has progressed. In C2000, approximately 24% of AOL Time Warner's total revenue was derived from advertising, in the publishing, networks, cable systems, and online segments. Note that the company's exposure to high-risk dot-com revenue is less than 2% of its total revenue. The bad news is the company has exposure to a very weak market, and the good news is it has far less exposure than most of its peers."
>
> "AOL Time Warner, Inc. Company Update," Morgan Stanley, April 3, 2001

76. AOL management emphasized that much of its online advertising income was from marketing budgets rather than traditional advertising budgets and believed that marketing budgets were less sensitive to the business cycle. Reports indicate that many analysts agreed with this assessment.[69] The view of AOL's management received added credibility when it reported unexpectedly high year-on-year growth in advertising for the first quarter of 2001 and was considered to be on track to achieve its EBITDA and revenue targets.[70]

77. For instance, Bernstein Research concluded that:

> "Online advertising was up 37%, above expectations, providing support for theory that online ad money is flowing from marketing sales, and promotional budgets despite downturn. Other conventional ads weak."

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[69] "AOL Time Warner, Inc.: The Tiffany OSP," Bear Stearns, April 9, 2001; "AOL Time Warner Beats Q1 Cash Earnings Estimates; 37% Online Ad Increase Supports 'Marketing' Concept," Bernstein Research, April 19, 2001.

[70] "COMPANIES & FINANCE THE AMERICAS - AOL weathers US media slowdown," *Financial Times*, April 19, 2001.

"AOL Time Warner Beats Q1 Cash Earnings Estimates; 37% Online Ad Increase Supports 'Marketing' Concept," Bernstein Research, April 19, 2001

78. Importantly, analysts stated that AOL could increase its advertising revenue in the face of a declining advertising market by increasing its market share. As Morgan Stanley put it:

> "…We believe that AOL's 1Q01 results provide credibility to our 2001 forecasts of $41 billion of revenue and $11 billion of EBITDA. Our forecast does not assume a general recovery of the advertising markets and instead assumes that AOL uses its size/scale to gain market share, a trend that we believe drove 1Q01 results…."

"One in a Row, with We Thinks, More to Come…," Morgan Stanley, April 19, 2001

79. Some analysts were less optimistic. For example, an article in *The Wall Street Journal* published on January 12, 2001 stated, "With mounting signs of an economic slowdown that could dramatically hurt advertising revenue, it may be tougher than expected for the new AOL Time Warner to boost earnings as much as its executives have been promising. And while analysts are still generally bullish about the long-term prospects for the media giant, some are now predicting that the company will have to cut costs more than expected…. Analysts differ about the impact of the advertising slowdown on the company. 'We are continuing to see challenges in both online and off-line advertising,' said John Corcoran, an analyst with CIBC World Markets. He believes that AOL Time Warner will face challenges in its effort to sell advertising across different media, such as cable networks, print and the Internet. Mr. Corcoran predicts the company will revise downward its growth targets early this year…."[71]

80. In a January 23, 2001 report, Goldman Sachs noted that "A slowing economy could significantly affect AOL Time Warner's advertising and commerce revenues."[72] In a February 26, 2001 report, Lehman Brothers' top-rated analyst Holly Becker expressed doubt that AOL could continue to evade the consequences of the slump in online advertising. "So far, AOL has proven it

[71] "New AOL Time Warner May Have Trouble Hitting Growth Targets," *The Wall Street Journal*, January 12, 2001.
[72] "AOL Time Warner, Inc.: Investor Day Handbook," Goldman Sachs, January 23, 2001.

is more immune from online advertising turmoil. Can this last?"[73] She goes on to elaborate "[w]e do not believe AOL will remain completely unscathed by the current environment, especially given the softness in the overall ad market...." Holly Becker's comments in this report are quoted in an article in the *Financial Times* dated March 19, 2001, which also quotes her as saying: "'…In fact, without Time Warner's business, 2001 may have been a difficult year for AOL.'"[74]

81. On March 14, 2001, Merrill Lynch lowered its estimate of advertising and commerce revenue for the AOL division stating that, "For the full year, we lowered adcom revenue to $3.1 billion (+32% growth) from $3.3 billion (+41% growth) <u>due to growing concerns</u> about second half visibility."[75] (emphasis added).

82. In their report dated March 30, 2001, Goldman Sachs' analysts stated "Given the weakening of the US economy over the past twelve months, we believe investors are increasingly focused on the quality of earnings and are questioning the organic revenue growth that AOL Time Warner (as well as its entertainment competitors) could achieve given the current economic/advertising environment…."[76]

83. Other examples of pessimistic remarks by analysts are found in Merrill Lynch and Deutsche Bank reports. In her report dated May 16, 2001, Merrill Lynch's top-rated analyst Jessica Reif Cohen stated "In a tough year for advertising, both online and offline, a primary investor concern remains AOL Time Warner's exposure to the advertising markets. With a diversified subscription, content and advertising revenue mix, the company is still less

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[73] "AOL Time Warner: At the Crossroad of Media and Communications," Lehman Brothers, February 26, 2001.
[74] "Pittman's Progress," *Financial Times*, March 19, 2001.
[75] "AOL Time Warner: Outlook: Remain comfortable with Q1 and $11B FY EBITDA, Trimming FY revenue," Merrill Lynch, March 14, 2001.
[76] "AOL Time Warner Inc. Quantifying the Merger Benefits," Goldman Sachs, March 30, 2001.

exposed than other leading media and internet companies, although it is clearly not immune to the slowdown....”[77]

84. In their report dated February 1, 2001, Deutsche Bank analysts stated:

> “Despite the slower economy, regulatory concessions, and weakness in the film and music businesses, management remains convinced that it will still meet financial targets for the combined company, originally presented one year ago.
>
> …
>
> While management may be comfortable with the original estimates, many investors we spoke to remain cautious that a company the size of AOL Time Warner will be able to produce EBITDA growth north of 25% and free cash flow growth of 50%. We believe, however, that management will do everything possible to meet estimates….”

“AOL Time Warner, Inc.: Recap of Analyst Day – Estimates Raised Slightly,”
Deutsche Bank, February 1, 2001

iii. AOL’s Stock Price Fully Reflected the Market’s Changing Expectations Regarding Future Advertising Expenditures

85. For the first half of 2001, the market had the information that (1) there was a downturn in advertising, (2) online advertising was falling sharply, and (3) AOL management believed that it could escape the brunt of the decline in online advertising. The market knew about the downturn in advertising, and investors knew that there were concerns among analysts as to whether AOL management’s assessment would turn out to be right or overly optimistic. AOL’s stock price reflected the uncertainty regarding its future advertising revenue.

86. My event study shows that the market incorporated in the stock price a sufficiently pessimistic assessment of AOL’s ability to escape the downturn in internet advertising in 2001. This is evidenced by the fact that when AOL reduced its guidance after September 11, 2001, its stock price did not experience significant abnormal returns. On September 24, 2001, AOL said clearly that the state of the advertising market was affecting AOL:

[77] “Analyzing AOL Time Warner The Major Issues and More,” Merrill Lynch, May 16, 2001.

> "The Company stated that 2001 results will be affected primarily by the continuing decline in the advertising market and the additional expenses incurred by its news-gathering operations, as well as costs in its various businesses associated with the aftermath of the terrorist attacks. Prior to September 11, the Company had not yet seen an improvement in the overall advertising environment, and, due to the events of September 11, it has further deteriorated. The state of the advertising market is impacting the Company's Networks, America Online, Publishing and Cable operations…."[78]

87. The views expressed by Bear Stearns' analysts from earlier that year support the conclusion that the market's assessment of AOL's stock price likely already reflected information about the risk of the declining advertising market. For example, in a report dated February 1, 2001, Bear Stearns published an EBITDA estimate of $11 billion for AOL where it stated, "With 2001 growth total company back-ended (second half of 2001) in a slower advertising environment, we believe there is still some caution surrounding cable network and publishing performance. In addition, the music company remains problematic. However, we are comfortable with our forecasts for AOL Advertising and Commerce revenues, which we believe will fuel growth at the online division, and with our $11 billion full year EBITDA estimate."[79]

88. Then, with further deterioration in the advertising market, Bear Stearns indicated on April 6, 2001, "We believe the market is already discounting lower expectations than the company's guidance to better reflect the current economic environment, and we are therefore following suit. We now expect EBITDA of $10.7 billion in 2001 (a 3% reduction) on revenues of $41.0 billion (a 2% adjustment)…."[80] (emphasis added)

[78] AOL press release of September 24, 2001, available on the web at http://www.timewarner.com/corp/newsroom/pr/0,20812,668971,00.html.
[79] "AOL Time Warner – Attractive: You've Got Guidance," Bear Stearns, February 1, 2001.
[80] "AOL Time Warner: Upgrade To A Buy," Bear Stearns, April 6, 2001.

89. The Complaint alleges that CSFB's reports on AOL concealed the CSFB analysts' true opinion as to the effect of the well-known advertising market decline on AOL's business. As a result, according to the Complaint, the market was left with the impression that the CSFB analysts believed that AOL was less sensitive to the advertising market decline than the CSFB analysts actually believed. Even assuming all of that were true, the alleged non-disclosures would not be expected to have had an inflationary impact on AOL's stock price (consistent with the findings of my event study) because (1) the risk associated with AOL's advertising revenue was already present in the market (2) that risk was expressed by other more prestigious analysts covering AOL, and (3) CSFB was only one of approximately 48 analyst firms covering AOL during the class period (and did not have the most prestigious analysts.)

90. Taken together with my conclusions in Section VI of this Declaration, there is no evidence that the disclosure to the market of information allegedly omitted from CSFB's AOL reports (i.e., the advertising market downturn, alleged inappropriate accounting activities, and layoffs at AOL) had any effect on AOL's stock price.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 26, 2007 at Columbus, Ohio.

René M. Stulz

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF System will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and, except to the extent registered participants at the same firm(s) received copies electronically as identified on the Notice of Electronic Filing, paper copies will be sent to those indicated as non-registered participants by U.S. Mail on April 27, 2007.

/ s/ Siobhan E. Mee_
Siobhan E. Mee

EXHIBIT 1

AOL Time Warner, Inc.
Analysis of Stock-Price Reactions to CSFB Reports [1]

Source: CSFB Analyst Reports; Second Consolidated Amended Complaint; CRSP; SEC Filings; CS–AOL_0004243 – 0004274

				Returns on Effective Date					
Report Date	**Effective Date** [2]	**CSFB Report Title**	**AOL Time Warner Closing Price on Effective Date**	**AOL Time Warner**	**NYSE / Nasdaq Composite**	**10-K Media Index** [3]	**10-K Internet Index** [4]	**AOL Time Warner Abnormal Return on Effective Date** [5]	**t-statistic** [6]
1/12/01	1/12/01	AOL Time Warner Merger Complete After FCC Conditional Approval	$46.47	-1.61%	-0.35%	4.00%	6.13%	-3.86%	-1.54
1/16/01	1/16/01	AOL Time Warner Surpasses 27 Million AOL-Branded Online Subscribers	$46.70	0.49%	0.62%	1.86%	8.04%	-1.46%	-0.58
2/1/01	2/1/01	AOL Time Warner Analyst Day, and Q4 Results	$49.83	-5.19%	0.38%	1.79%	-6.74%	-5.82%	-2.31 *
3/5/01	3/5/01	Federal Appeals Court Overturns FCC's Cable Ownership Caps	$43.80	4.14%	0.54%	-1.37%	0.34%	4.62%	1.84
3/7/01	3/7/01	AOL To Create New TV Networks Group	$45.30	-2.66%	0.61%	0.58%	-2.27%	-3.12%	-1.24
3/8/01	3/8/01	AOL Surpasses 28 Million Subscribers, and Signs Several Large Cross-Platform Advertising Deals	$44.50	-1.77%	-0.13%	0.59%	-5.98%	-1.39%	-0.55
3/21/01	3/21/01	AOL and Ticketmaster Announce Strategic Alliance	$37.84	-2.45%	-1.87%	-2.22%	0.18%	0.36%	0.14
3/23/01	3/23/01	Bressler is Expected To Leave AOL Time Warner	$39.52	7.48%	2.05%	4.03%	0.85%	3.76%	1.50
4/2/01	4/2/01	AOL, RealNetworks, EMI, and Bertelsmann Launch Online Music Subscription Service	$37.17	-7.42%	-1.55%	-4.02%	-7.01%	-3.31%	-1.31
4/3/01	4/3/01	AOL Update	$33.90	-8.80%	-3.59%	-3.22%	-11.03%	-3.27%	-1.30
4/10/01	4/11/01	The TWX Assets Increased Their Returns Despite Significantly Higher Capital Spending in 2000	$41.20	2.97%	-0.08%	-0.56%	-4.89%	3.88%	1.54
4/12/01	4/12/01	The TWX Assets Increased Their Returns Despite Significantly Higher Capital Spending in 2000	$42.22	2.48%	1.59%	1.75%	5.08%	0.07%	0.03
4/16/01	4/16/01	AOL Surpasses 29 Million Subscribers; Preview of Q1 Earnings	$43.31	2.58%	-0.50%	0.81%	-0.36%	2.70%	1.07
4/18/01 [7]	4/18/01	AOL Reports Positive Surprise For March Q Results; No Change to Guidance, But Visibility Remains Low	$49.00	11.62%	3.97%	6.29%	1.27%	5.15%	2.05 *
5/15/01	5/15/01	AOL and Sony Computer Entertainment Announce a Strategic Alliance	$50.75	-1.65%	0.14%	-1.53%	0.68%	-0.80%	-0.32
5/16/01	5/16/01	AOL and Bertelsmann Restructure AOL Europe Deal	$53.04	4.51%	2.73%	3.70%	1.66%	0.41%	0.16
5/22/01	5/22/01	Price Increase for AOL's Core Service; Raising Revenue & EBITDA	$56.15	-0.80%	-0.17%	-1.24%	8.81%	-0.48%	-0.19
5/23/01	5/23/01	AOL Update – Pittman Meeting	$55.28	-1.55%	-1.67%	-2.39%	-4.62%	1.57%	0.62
5/29/01	5/29/01	New MSN Promotion Should Have A Negligible Effect on AOL Subscriber Churn	$51.00	-4.73%	-1.04%	-1.28%	-5.81%	-2.63%	-1.04
6/4/01	6/4/01	Discussions With Microsoft RE: Windows XP	$51.95	-1.52%	0.51%	0.42%	0.52%	-2.02%	-0.80

EXHIBIT 1

AOL Time Warner, Inc.
Analysis of Stock-Price Reactions to CSFB Reports [1]

Source: CSFB Analyst Reports; Second Consolidated Amended Complaint; CRSP; SEC Filings; CS–AOL_0004243 – 0004274

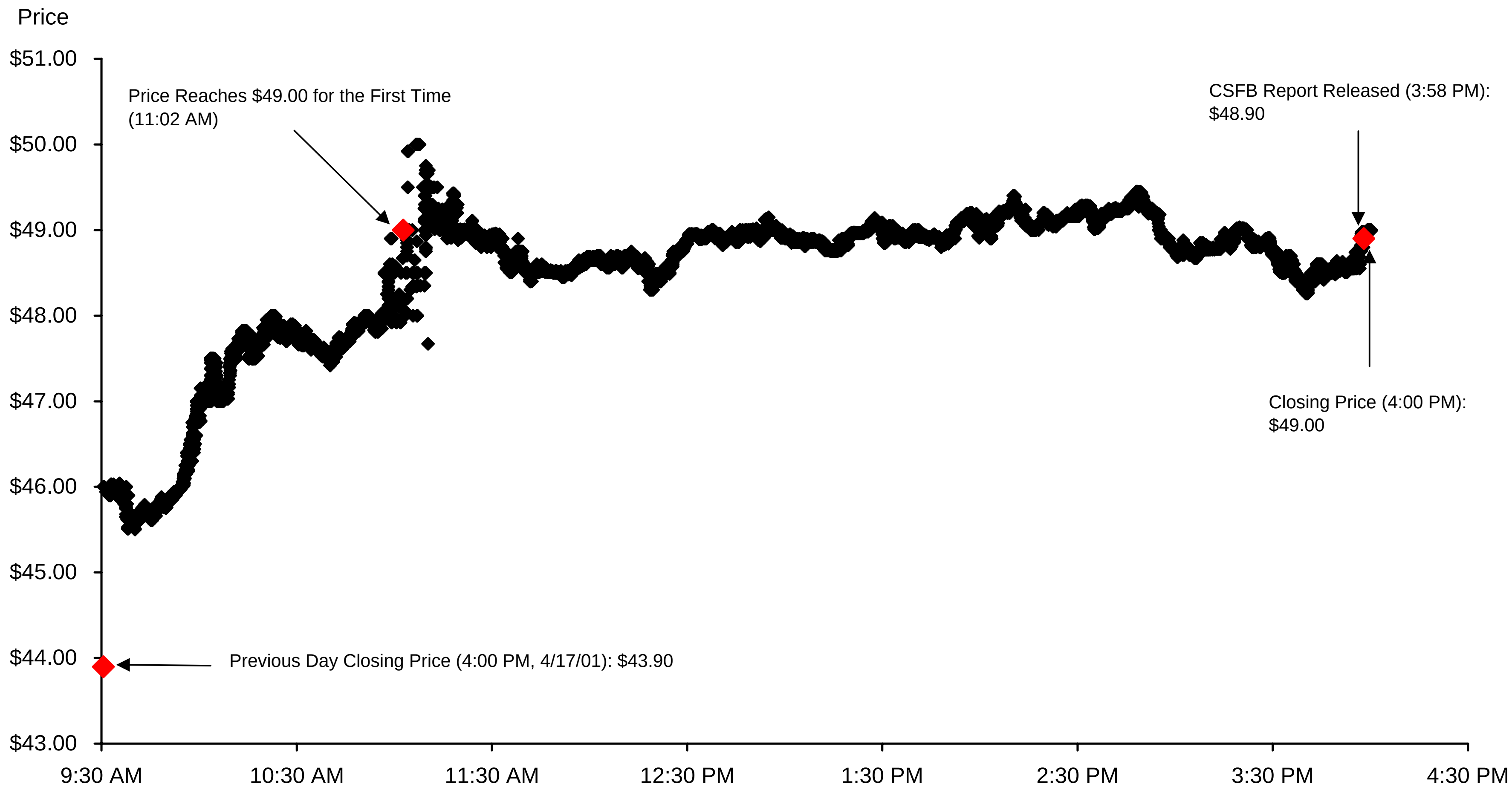
				Returns on Effective Date					
Report Date	**Effective Date** [2]	**CSFB Report Title**	**AOL Time Warner Closing Price on Effective Date**	**AOL Time Warner**	**NYSE / Nasdaq Composite**	**10-K Media Index** [3]	**10-K Internet Index** [4]	**AOL Time Warner Abnormal Return on Effective Date** [5]	**t-statistic** [6]
6/12/01	6/12/01	AOL and Cox Partner for Multiple ISP Trial	$52.10	0.60%	0.02%	0.42%	-2.61%	0.71%	0.28
6/25/01	6/25/01	AOL June Q Preview: Cash Flow Good, Revenue Light; Adjusting Topline Estimates	$53.00	-0.19%	-0.49%	0.19%	5.35%	-0.16%	-0.06
6/25/01	6/25/01	AOL Surpasses 30 Million Subscribers	$53.00	-0.19%	-0.49%	0.19%	5.35%	-0.16%	-0.06
7/12/01	7/12/01	Media Metrix Reports Monthly Traffic Figures	$50.05	3.20%	2.36%	0.36%	2.51%	1.17%	0.46
7/19/01	7/19/01	AOL Reports Mixed June Q Results; Lowering H2 Revenue; Visibility Remains Low	$42.78	-4.19%	0.52%	-0.38%	6.48%	-4.70%	-1.87
8/2/01	8/3/01	June Quarter Asset Allocation Excellent	$46.88	-0.26%	-0.46%	-1.35%	-0.03%	1.01%	0.40
8/15/01	8/15/01	Lowering H2 Revenue & EBITDA Estimates, But Stock Should Be Nearing A Bottom	$39.70	0.13%	-0.68%	-2.19%	-1.71%	2.16%	0.86
8/22/01	8/22/01	Reducing Headcount By 1,700 in AOL Division	$39.50	-1.00%	0.74%	0.07%	0.03%	-1.45%	-0.58
9/19/01 [8]	9/19/01	Concerns About Entertainment Group Priced AOL; Buy at Current Levels	$30.95	1.64%	-1.71%	-0.07%	0.70%	3.09%	1.23
9/25/01	9/25/01	AOL Update: Reducing Estimates	$32.80	0.92%	0.76%	-2.54%	-1.86%	2.06%	0.82
10/18/01	10/18/01	In-Line Q3 Results; Outlook Unchanged	$29.90	-2.95%	-0.70%	-2.15%	0.08%	-1.07%	-0.42
11/26/01	11/27/01	AOL Surpasses 32 Million Subscribers	$36.76	-1.63%	-0.51%	-0.70%	-0.54%	-0.65%	-0.26
12/5/01	12/5/01	Senior Management Changes	$35.83	3.11%	2.31%	7.28%	11.19%	-3.39%	-1.35
1/8/02	1/8/02	Revised 2002 Guidance	$32.00	-2.08%	-0.25%	-2.35%	5.92%	-0.87%	-0.34
1/30/02	1/31/02	Reports Q4 Results	$26.31	-0.34%	1.32%	0.58%	0.97%	-1.58%	-0.63
					Average AOL Time Warner Abnormal Return			**-0.27%**	

Note:
[1] Exhibit includes 35 CSFB reports that are mentioned in the Complaint.
[2] The effective date is the trading day after the report for four reports dated 4/10/01, 8/2/01, 11/26/01, and 1/30/02 that were released after the close of trading on the report date. For all other reports, that were known to be released before the close of trading on the report date, the effective date of the report is the report date. The time of release was not available for the report dated 9/19/01, which was assumed to be released before the close of trading on the report date.
[3] The 10-K Media Index includes Walt Disney Company, Viacom, and The News Corporation.
[4] The 10-K Internet Index includes Earthlink, United Online (formerly Net Zero), and Yahoo.
[5] Abnormal returns are based on a 3-Factor regression of AOL Time Warner's returns on the value-weighted NYSE/NASDAQ Composite Returns, an equal-weighted 10-K Media Index, and an equal-weighted 10-K Internet Index for the period 1/12/01 to 7/24/02, excluding the effective dates of CSFB reports mentioned in the Complaint. In addition, because CSFB's 4/18/01 report was released near the close of the market on the report date, the next trading day was also excluded.
Abnormal Return = Actual Return - (-0.0016 + 0.7640*(NYSE/NASDAQ Value-Weighted Composite Return) + 0.0749*(10-K Internet Index Return) + 0.5570*(10-K Media Index Return)).
[6] An abnormal return with a t-statistic greater than 1.96 or less than -1.96 is significant at the 95% level and identified with a (*).
[7] AOL Time Warner's abnormal return on the next trading day, 4/19/01, is -0.09% (statistically insignificant).
[8] The Complaint incorrectly states that the report entitled "Concerns About Entertainment Group Priced AOL; Buy at Current Levels" was issued on 9/18/01. It was issued on 9/19/01.

EXHIBIT 2

AOL Time Warner, Inc. Intraday Stock Price
4/18/01

Source: TAQ; CRSP; Analyst Reports; CS–AOL_0004257



Note: AOL Time Warner announced its 1Q 2001 financial results at 6:02 AM on this date.
Chart does not include after-market trades.